

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 87 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO
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COMMISSIONER OF INCOME-TAX

Versus

IQBAL HASAN

Appearance:

1. INCOME TAX REFERENCE No. 87 of 1988
MR BB NAIK for MR MANISH R BHATT for Petitioner No. 1
MR SUNIL B PARIKH for Respondent No. 1
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CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 25/09/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue,
the following questions are referred for the opinion of
this Court in respect of assessment year 1975-76:-

- (i) "Whether, on the facts and in the circumstances
of the case and having regard to the provisions
in the deed of partnership, the Tribunal was
right in law in coming to the conclusion that the
amounts payable by the assessee to the other
heirs of the deceased partner were diverted at
source by over-riding title?"
- (ii) "Whether, on the facts and in the circumstances
of the case, the Tribunal was right in coming to
the conclusion that the distribution of the
income by the assessee was not a case of
application of income after it was earned?"

2. We have heard Mr. B.B. Naik learned counsel for
the revenue, and Mr. Sunil B. Parikh learned counsel
for the respondent-assessee.

3. At the hearing of the reference, Mr. Sunil B.
Parikh, learned counsel for the assessee points out that
apart from the fact that the tax amount involved in this
reference is only Rs.7390/-, for the subsequent
assessment years, the Department has accepted the
assessee's case that the income in question is not
taxable.

4. Having heard the learned counsel for the parties,
having regard to the smallness of the amount involved and
also the fact that for subsequent assessment years the
Department has accepted the assessee's case on the same
controversy, we decline to answer the questions.

5. The Reference accordingly stands disposed of with
no order as to costs.

(M.S. Shah, J)

(D.A. Mehta, J)

zgs/-